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Jonathan William Mikula  
7

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11 SECURITIES AND EXCHANGE  
12 COMMISSION,

13 Plaintiff,

14 v.

15 JONATHAN WILLIAM MIKULA,  
16 CHRISTIAN FERNANDEZ, AMIT RAJ  
17 BERI, SWAY ENERGY  
18 CORPORATION, AVTAR SINGH  
19 DHILLON, EMERALD HEALTH  
20 PHARMACEUTICALS INC., and  
21 JAMES M. DEMESA,

22 Defendants.  
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Case No. 22-cv-07096

**DEFENDANT JONATHAN  
WILLIAM MIKULA'S  
ANSWER TO PLAINTIFF  
SECURITIES AND  
EXCHANGE COMMISSION'S  
COMPLAINT**

DEMAND FOR JURY TRIAL

1 Defendant Jonathan William Mikula, through his undersigned attorneys,  
2 answers the Complaint filed in this action by Plaintiff Securities and Exchange  
3 Commission (“SEC”) as follows. Mikula reserves his right to later amend his  
4 Answers as necessary.  
5

### 6 **JURISDICTION**

7 1. The Court’s jurisdiction over this action is admitted.  
8

9 2. Answering Paragraph 2, based on the advice of counsel, Mikula  
10 respectfully invokes his rights under the Fifth Amendment to the United States  
11 Constitution against self-incrimination, declines to answer the SEC’s allegations  
12 and respectfully requests that the Court treat such invocation as a specific denial of  
13 the allegations.  
14

15 3. Paragraph 3 contains a legal conclusion to which no response is  
16 required. To the extent a response is deemed required, Mikula summarily denies  
17 that venue is proper.  
18

### 19 **SUMMARY**

20 4. Paragraph 4 contains a legal conclusion to which no response is  
21 required. To the extent a response is deemed required, based on the advice of  
22 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
23 United States Constitution against self-incrimination, declines to answer the SEC’s  
24 allegations and respectfully requests that the Court treat such invocation as a  
25 specific denial of the allegations.  
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1           5.     Answering Paragraph 5, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.  
6

7           6.     Answering Paragraph 6, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13           7.     Answering Paragraph 7, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19           8.     Answering Paragraph 8, based on the advice of counsel, Mikula  
20 respectfully invokes his rights under the Fifth Amendment to the United States  
21 Constitution against self-incrimination, declines to answer the SEC's allegations  
22 and respectfully requests that the Court treat such invocation as a specific denial of  
23 the allegations.  
24

1           9.     Answering Paragraph 9, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.  
6

7           10.    Answering Paragraph 10, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13           11.    Answering Paragraph 11, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19           12.    Answering Paragraph 12, based on the advice of counsel, Mikula  
20 respectfully invokes his rights under the Fifth Amendment to the United States  
21 Constitution against self-incrimination, declines to answer the SEC's allegations  
22 and respectfully requests that the Court treat such invocation as a specific denial of  
23 the allegations.  
24

1           13. Paragraph 13 contains legal conclusions to which no response is  
2 required. To the extent a response is deemed required, based on the advice of  
3 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
4 United States Constitution against self-incrimination, declines to answer the SEC's  
5 allegations and respectfully requests that the Court treat such invocation as a  
6 specific denial of the allegations.  
7

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9           14. Paragraph 14 contains legal conclusions to which no response is  
10 required. To the extent a response is deemed required, based on the advice of  
11 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
12 United States Constitution against self-incrimination, declines to answer the SEC's  
13 allegations and respectfully requests that the Court treat such invocation as a  
14 specific denial of the allegations.  
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16

### 17                                   **THE DEFENDANTS**

18           15. Answering Paragraph 15, Mikula admits that he is a resident of  
19 Georgia, that he has twice entered into consent decrees without admitting or  
20 denying the allegations therein in federal court for alleged federal security law  
21 violations, and that he pled guilty to a violation of 18 U.S.C. §1001. Based on the  
22 advice of counsel, Mikula respectfully invokes his rights under the Fifth  
23 Amendment to the United States Constitution against self-incrimination, declines  
24 to answer the SEC's remaining allegations, and respectfully requests that the Court  
25 treat such invocation as a specific denial of the allegations.  
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1           16. Answering Paragraph 16, Mikula is without sufficient information to  
2 form an opinion as to the truth or falsity of the allegations contained therein and  
3 therefore denies same. To the extent the allegations are directed at Mikula, based  
4 on the advice of counsel, Mikula respectfully invokes his rights under the Fifth  
5 Amendment to the United States Constitution against self-incrimination, declines  
6 to answer the SEC's allegations and respectfully requests that the Court treat such  
7 invocation as a specific denial of the allegations.  
8  
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10           17. Answering Paragraph 17, without waiving his rights under the Fifth  
11 Amendment to the United States Constitution, Mikula admits the allegation.  
12

13           18. Answering Paragraph 18, without waiving his rights under the Fifth  
14 Amendment to the United States Constitution, Mikula admits the allegation.  
15

16           19. Answering Paragraph 19, without waiving his rights under the Fifth  
17 Amendment to the United States Constitution, Mikula admits that Dhillon is a  
18 Canadian citizen residing in California, and that he co-founded Emerald Health  
19 and served as president and chairman of its board until 2019. As to the phrase,  
20 "conduct described below," based on the advice of counsel, Mikula respectfully  
21 invokes his rights under the Fifth Amendment to the United States Constitution  
22 against self-incrimination, declines to answer the SEC's allegations and  
23 respectfully requests that the Court treat such invocation as a specific denial of the  
24 allegations. Mikula is without sufficient information to form an opinion as to the  
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1 truth or falsity of the remaining allegations contained therein and therefore denies  
2 same.

3         20. Answering Paragraph 20, without waiving his rights under the Fifth  
4 Amendment to the United States Constitution, Mikula admits the allegation.  
5

6         21. Answering Paragraph 21, without waiving his rights under the Fifth  
7 Amendment to the United States Constitution, Mikula admits that DeMesa was a  
8 resident of Florida and the president and CEO of Emerald Health. As to the phrase,  
9 “conduct described below,” based on the advice of counsel, Mikula respectfully  
10 invokes his rights under the Fifth Amendment to the United States Constitution  
11 against self-incrimination, declines to answer the SEC’s allegations and  
12 respectfully requests that the Court treat such invocation as a specific denial of the  
13 allegations.  
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### 17 **RELATED ENTITIES AND INDIVIDUALS**

18         22. Answering Paragraph 22, based on the advice of counsel, Mikula  
19 respectfully invokes his rights under the Fifth Amendment to the United States  
20 Constitution against self-incrimination, declines to answer the SEC’s allegations and  
21 respectfully requests that the Court treat such invocation as a specific denial of the  
22 allegations.  
23  
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25         23. Answering Paragraph 23, based on the advice of counsel, Mikula  
26 respectfully invokes his rights under the Fifth Amendment to the United States  
27 Constitution against self-incrimination, declines to answer the SEC’s allegations and  
28

1 respectfully requests that the Court treat such invocation as a specific denial of the  
2 allegations.

3       24. Answering Paragraph 24, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations and  
6 respectfully requests that the Court treat such invocation as a specific denial of the  
7 allegations.  
8  
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### 10 **THE ALLEGATIONS**

11       25. Answering Paragraph 25, based on the advice of counsel, Mikula  
12 respectfully invokes his rights under the Fifth Amendment to the United States  
13 Constitution against self-incrimination, declines to answer the SEC's allegations  
14 and respectfully requests that the Court treat such invocation as a specific denial of  
15 the allegations.  
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18       26. Answering Paragraph 26, based on the advice of counsel, Mikula  
19 respectfully invokes his rights under the Fifth Amendment to the United States  
20 Constitution against self-incrimination, declines to answer the SEC's allegations  
21 and respectfully requests that the Court treat such invocation as a specific denial of  
22 the allegations.  
23  
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25       27. Answering Paragraph 27, based on the advice of counsel, Mikula  
26 respectfully invokes his rights under the Fifth Amendment to the United States  
27 Constitution against self-incrimination, declines to answer the SEC's allegations  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         28. Answering Paragraph 28, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10         29. Answering Paragraph 29, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
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17         30. Answering Paragraph 30, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24         31. Answering Paragraph 31, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         32. Answering Paragraph 32, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10         33. Answering Paragraph 33, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
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17         34. Answering Paragraph 34, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24         35. Answering Paragraph 35, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         36. Answering Paragraph 36, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10         37. Answering Paragraph 37, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
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17         38. Answering Paragraph 38, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
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24         39. Answering Paragraph 39, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 40. Answering Paragraph 40, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10 41. Answering Paragraph 41, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations including its subparts.  
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17 42. Answering Paragraph 42, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
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24 43. Answering Paragraph 43, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 44. Answering Paragraph 44, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10 45. Answering Paragraph 45, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17 46. Answering Paragraph 46, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 47. Answering Paragraph 47, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 48. Answering Paragraph 48, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 including its subparts and respectfully requests that the Court treat such invocation  
7 as a specific denial of the allegations.  
8  
9

10 49. Answering Paragraph 49, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
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17 50. Answering Paragraph 50, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 51. Answering Paragraph 51, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 52. Answering Paragraph 52, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10 53. Answering Paragraph 53, without waiving his rights under the Fifth  
11 Amendment to the United States Constitution, Mikula admits the allegation.  
12

13 54. Answering Paragraph 54, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19 55. Answering Paragraph 55, based on the advice of counsel, Mikula  
20 respectfully invokes his rights under the Fifth Amendment to the United States  
21 Constitution against self-incrimination, declines to answer the SEC's allegations  
22 and respectfully requests that the Court treat such invocation as a specific denial of  
23 the allegations.  
24  
25

26 56. Answering Paragraph 56, based on the advice of counsel, Mikula  
27 respectfully invokes his rights under the Fifth Amendment to the United States  
28

1 Constitution against self-incrimination, declines to answer the SEC's allegations  
2 and respectfully requests that the Court treat such invocation as a specific denial of  
3 the allegations.  
4

5 57. Answering Paragraph 57, based on the advice of counsel, Mikula  
6 respectfully invokes his rights under the Fifth Amendment to the United States  
7 Constitution against self-incrimination, declines to answer the SEC's allegations  
8 and respectfully requests that the Court treat such invocation as a specific denial of  
9 the allegations.  
10

11 58. Answering Paragraph 58, based on the advice of counsel, Mikula  
12 respectfully invokes his rights under the Fifth Amendment to the United States  
13 Constitution against self-incrimination, declines to answer the SEC's allegations  
14 and respectfully requests that the Court treat such invocation as a specific denial of  
15 the allegations.  
16  
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18 59. Answering Paragraph 59, based on the advice of counsel, Mikula  
19 respectfully invokes his rights under the Fifth Amendment to the United States  
20 Constitution against self-incrimination, declines to answer the SEC's allegations  
21 and respectfully requests that the Court treat such invocation as a specific denial of  
22 the allegations.  
23  
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25 60. Answering Paragraph 60, based on the advice of counsel, Mikula  
26 respectfully invokes his rights under the Fifth Amendment to the United States  
27 Constitution against self-incrimination, declines to answer the SEC's allegations  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         61. Answering Paragraph 61, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10         62. Answering Paragraph 62, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17         63. Answering Paragraph 63, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24         64. Answering Paragraph 64, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 65. Answering Paragraph 65, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10 66. Answering Paragraph 66, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17 67. Answering Paragraph 67, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 68. Answering Paragraph 68, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         69. Answering Paragraph 69, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10         70. Answering Paragraph 70, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17         71. Answering Paragraph 71, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24         72. Answering Paragraph 72, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 73. Answering Paragraph 73, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10 74. Answering Paragraph 74, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17 75. Answering Paragraph 75, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 76. Answering Paragraph 76, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 77. Answering Paragraph 77, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
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10 78. Answering Paragraph 78, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
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17 79. Answering Paragraph 79, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 80. Answering Paragraph 80, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 81. Answering Paragraph 81, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10 82. Answering Paragraph 82, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17 83. Answering Paragraph 83, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 84. Answering Paragraph 84, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 85. Answering Paragraph 85, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10 86. Answering Paragraph 86, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17 87. Answering Paragraph 87, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 88. Answering Paragraph 88, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 89. Answering Paragraph 89, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8

9  
10 90. Answering Paragraph 90, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15

16  
17 91. Answering Paragraph 91, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22

23 92. Answering Paragraph 92, based on the advice of counsel, Mikula  
24 respectfully invokes his rights under the Fifth Amendment to the United States  
25 Constitution against self-incrimination, declines to answer the SEC's allegations  
26  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 93. Answering Paragraph 93, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10 94. Answering Paragraph 94, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17 95. Answering Paragraph 95, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24 96. Answering Paragraph 96, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3 97. Answering Paragraph 97, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8

9 98. Answering Paragraph 98, based on the advice of counsel, Mikula  
10 respectfully invokes his rights under the Fifth Amendment to the United States  
11 Constitution against self-incrimination, declines to answer the SEC's allegations  
12 and respectfully requests that the Court treat such invocation as a specific denial of  
13 the allegations.  
14

15 99. Answering Paragraph 99, based on the advice of counsel, Mikula  
16 respectfully invokes his rights under the Fifth Amendment to the United States  
17 Constitution against self-incrimination, declines to answer the SEC's allegations  
18 and respectfully requests that the Court treat such invocation as a specific denial of  
19 the allegations.  
20

21 100. Answering Paragraph 100, based on the advice of counsel, Mikula  
22 respectfully invokes his rights under the Fifth Amendment to the United States  
23 Constitution against self-incrimination, declines to answer the SEC's allegations  
24  
25  
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1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         101. Answering Paragraph 101, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10         102. Answering Paragraph 102, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17         103. Answering Paragraph 103, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24         104. Answering Paragraph 104, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3         105. Answering Paragraph 105, based on the advice of counsel, Mikula  
4 respectfully invokes his rights under the Fifth Amendment to the United States  
5 Constitution against self-incrimination, declines to answer the SEC's allegations  
6 and respectfully requests that the Court treat such invocation as a specific denial of  
7 the allegations.  
8  
9

10         106. Answering Paragraph 106, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.  
15  
16

17         107. Answering Paragraph 107, based on the advice of counsel, Mikula  
18 respectfully invokes his rights under the Fifth Amendment to the United States  
19 Constitution against self-incrimination, declines to answer the SEC's allegations  
20 and respectfully requests that the Court treat such invocation as a specific denial of  
21 the allegations.  
22  
23

24         108. Answering Paragraph 108, based on the advice of counsel, Mikula  
25 respectfully invokes his rights under the Fifth Amendment to the United States  
26 Constitution against self-incrimination, declines to answer the SEC's allegations  
27  
28

1 and respectfully requests that the Court treat such invocation as a specific denial of  
2 the allegations.

3  
4 **FIRST CLAIM FOR RELIEF**

5 **Fraud in Connection with the Purchase or Sale of Securities**  
6 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) & (c)**  
7 **(against all Defendants)**

8 109. Answering Paragraph 109, Mikula restates and incorporates his  
9 answers to Paragraphs 1-108 of the Complaint as though fully set forth herein.

10 110. Answering Paragraph 110, based on the advice of counsel, Mikula  
11 respectfully invokes his rights under the Fifth Amendment to the United States  
12 Constitution against self-incrimination, declines to answer the SEC's allegations  
13 and respectfully requests that the Court treat such invocation as a specific denial of  
14 the allegations.

15 111. Answering Paragraph 111, based on the advice of counsel, Mikula  
16 respectfully invokes his rights under the Fifth Amendment to the United States  
17 Constitution against self-incrimination, declines to answer the SEC's allegations  
18 and respectfully requests that the Court treat such invocation as a specific denial of  
19 the allegations.

20 112. Answering Paragraph 112, based on the advice of counsel, Mikula  
21 respectfully invokes his rights under the Fifth Amendment to the United States  
22 Constitution against self-incrimination, declines to answer the SEC's allegations  
23 and respectfully requests that the Court treat such invocation as a specific denial of  
24 the allegations.

1           113.     Answering Paragraph 113, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.  
6

7           114.     Answering Paragraph 114, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13           115.     Answering Paragraph 115, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19           116.     Answering Paragraph 116, Mikula states that the allegations contained  
20 therein call for legal analysis and conclusion, to which Mikula is not qualified to  
21 respond. To the extent a response is deemed required, based on the advice of  
22 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
23 United States Constitution against self-incrimination, declines to answer the SEC's  
24  
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28

1 allegations and respectfully requests that the Court treat such invocation as a  
 2 specific denial of the allegations.

### 3 **SECOND CLAIM FOR RELIEF**

#### 4 **Fraud in Connection with the Purchase or Sale of Securities** 5 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5(b)** 6 **(against Mikula, Beri, Elegance, Emerald Health, and DeMesa)**

7 117. Answering Paragraph 117, Mikula restates and incorporates his  
 8 answers to Paragraphs 1-108 of the Complaint as though fully set forth herein.

9 118. Answering Paragraph 118, based on the advice of counsel, Mikula  
 10 respectfully invokes his rights under the Fifth Amendment to the United States  
 11 Constitution against self-incrimination, declines to answer the SEC's allegations  
 12 and respectfully requests that the Court treat such invocation as a specific denial of  
 13 the allegations.  
 14

15 119. Answering Paragraph 119, based on the advice of counsel, Mikula  
 16 respectfully invokes his rights under the Fifth Amendment to the United States  
 17 Constitution against self-incrimination, declines to answer the SEC's allegations  
 18 and respectfully requests that the Court treat such invocation as a specific denial of  
 19 the allegations.  
 20

21 120. Answering Paragraph 120, based on the advice of counsel, Mikula  
 22 respectfully invokes his rights under the Fifth Amendment to the United States  
 23 Constitution against self-incrimination, declines to answer the SEC's allegations  
 24 and respectfully requests that the Court treat such invocation as a specific denial of  
 25 the allegations.  
 26  
 27  
 28

1           121.     Answering Paragraph 121, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.  
6

7           122.     Answering Paragraph 122, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13           123.     Answering Paragraph 123, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19           124.     Answering Paragraph 124, based on the advice of counsel, Mikula  
20 respectfully invokes his rights under the Fifth Amendment to the United States  
21 Constitution against self-incrimination, declines to answer the SEC's allegations  
22 and respectfully requests that the Court treat such invocation as a specific denial of  
23 the allegations.  
24  
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1           125.     Answering Paragraph 125, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.

6  
7           126.     Answering Paragraph 126, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13  
14           127.     Answering Paragraph 127, Mikula states that the allegations contained  
15 therein call for legal analysis and conclusion, to which Mikula is not qualified to  
16 respond. To the extent a response is deemed required, based on the advice of  
17 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
18 United States Constitution against self-incrimination, declines to answer the SEC's  
19 allegations and respectfully requests that the Court treat such invocation as a  
20 specific denial of the allegations.  
21  
22

23  
24                   **THIRD CLAIM FOR RELIEF**  
25                   **Fraud in the Offer or Sale of Securities**  
26                   **Violations of Section 17(a)(1) and (3) of the Securities Act**  
                      **(against all Defendants)**

27           128.     Answering Paragraph 128, Mikula restates and incorporates his  
28 answers to Paragraphs 1-108 of the Complaint as though fully set forth herein.

1           129.     Answering Paragraph 129, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.  
6

7           130.     Answering Paragraph 130, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13           131.     Answering Paragraph 131, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19           132.     Answering Paragraph 132, based on the advice of counsel, Mikula  
20 respectfully invokes his rights under the Fifth Amendment to the United States  
21 Constitution against self-incrimination, declines to answer the SEC's allegations  
22 and respectfully requests that the Court treat such invocation as a specific denial of  
23 the allegations.  
24  
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1           133.     Answering Paragraph 133, based on the advice of counsel, Mikula  
 2 respectfully invokes his rights under the Fifth Amendment to the United States  
 3 Constitution against self-incrimination, declines to answer the SEC's allegations  
 4 and respectfully requests that the Court treat such invocation as a specific denial of  
 5 the allegations.  
 6

7           134.     Answering Paragraph 134, based on the advice of counsel, Mikula  
 8 respectfully invokes his rights under the Fifth Amendment to the United States  
 9 Constitution against self-incrimination, declines to answer the SEC's allegations  
 10 and respectfully requests that the Court treat such invocation as a specific denial of  
 11 the allegations.  
 12

13           135.     Answering Paragraph 135, Mikula states that the allegations contained  
 14 therein call for legal analysis and conclusion, to which Mikula is not qualified to  
 15 respond. To the extent a response is deemed required, based on the advice of  
 16 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
 17 United States Constitution against self-incrimination, declines to answer the SEC's  
 18 allegations and respectfully requests that the Court treat such invocation as a  
 19 specific denial of the allegations.  
 20  
 21  
 22

23                                   **FOURTH CLAIM FOR RELIEF**  
 24                                   **Fraud in the Offer or Sale of Securities**  
 25                                   **Violations of Section 17(a)(2) of the Securities Act**  
 26                                   **(against Mikula, Beri, Elegance, Merald Health, and DeMesa)**

27           136.     Answering Paragraph 136, Mikula restates and incorporates his  
 28 answers to Paragraphs 1-108 of the Complaint as though fully set forth herein.

1           137.     Answering Paragraph 137, based on the advice of counsel, Mikula  
2 respectfully invokes his rights under the Fifth Amendment to the United States  
3 Constitution against self-incrimination, declines to answer the SEC's allegations  
4 and respectfully requests that the Court treat such invocation as a specific denial of  
5 the allegations.  
6

7           138.     Answering Paragraph 138, based on the advice of counsel, Mikula  
8 respectfully invokes his rights under the Fifth Amendment to the United States  
9 Constitution against self-incrimination, declines to answer the SEC's allegations  
10 and respectfully requests that the Court treat such invocation as a specific denial of  
11 the allegations.  
12

13           139.     Answering Paragraph 139, based on the advice of counsel, Mikula  
14 respectfully invokes his rights under the Fifth Amendment to the United States  
15 Constitution against self-incrimination, declines to answer the SEC's allegations  
16 and respectfully requests that the Court treat such invocation as a specific denial of  
17 the allegations.  
18

19           140.     Answering Paragraph 140, based on the advice of counsel, Mikula  
20 respectfully invokes his rights under the Fifth Amendment to the United States  
21 Constitution against self-incrimination, declines to answer the SEC's allegations  
22 and respectfully requests that the Court treat such invocation as a specific denial of  
23 the allegations.  
24  
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1           141.     Answering Paragraph 141, Mikula states that the allegations contained  
 2     therein call for legal analysis and conclusion, to which Mikula is not qualified to  
 3     respond. To the extent a response is deemed required, based on the advice of  
 4     counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
 5     United States Constitution against self-incrimination, declines to answer the SEC's  
 6     allegations and respectfully requests that the Court treat such invocation as a  
 7     specific denial of the allegations.  
 8  
 9

10                                   **FIFTH CLAIM FOR RELIEF**  
 11                   **Nondisclosure of Compensation for Touting Stock**  
 12                   **Violations of Section 17(b) of the Securities Act**  
 13                   **(against Mikula)**

14           142.     Answering Paragraph 142, Mikula restates and incorporates his  
 15     answers to Paragraphs 1-108 of the Complaint as though fully set forth herein.

16           143.     Answering Paragraph 143, based on the advice of counsel, Mikula  
 17     respectfully invokes his rights under the Fifth Amendment to the United States  
 18     Constitution against self-incrimination, declines to answer the SEC's allegations  
 19     and respectfully requests that the Court treat such invocation as a specific denial of  
 20     the allegations.  
 21  
 22

23           144.     Answering Paragraph 144, based on the advice of counsel, Mikula  
 24     respectfully invokes his rights under the Fifth Amendment to the United States  
 25     Constitution against self-incrimination, declines to answer the SEC's allegations  
 26     and respectfully requests that the Court treat such invocation as a specific denial of  
 27     the allegations.  
 28

1           145.     Answering Paragraph 145, Mikula states that the allegations contained  
 2     therein call for legal analysis and conclusion, to which Mikula is not qualified to  
 3     respond. To the extent a response is deemed required, based on the advice of  
 4     counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
 5     United States Constitution against self-incrimination, declines to answer the SEC's  
 6     allegations and respectfully requests that the Court treat such invocation as a  
 7     specific denial of the allegations.  
 8  
 9

10                                   **SIXTH CLAIM FOR RELIEF**  
 11                                   **Aiding and Abetting**  
 12                                   **Violations of Section 17(b) of the Securities Act**  
 13                                   **(against Fernandez, Beri, and Dhillon)**

14           146.     Answering Paragraph 146, Mikula hereby incorporates by reference  
 15     his responses to the allegations in paragraphs 1 through 108 of the Complaint.

16           147.     Answering Paragraph 147, a response is not required as the Claim is  
 17     not directed at Mikula. To the extent a response is deemed required, based on the  
 18     advice of counsel, Mikula respectfully invokes his rights under the Fifth  
 19     Amendment to the United States Constitution against self-incrimination, declines  
 20     to answer the SEC's allegations and respectfully requests that the Court treat such  
 21     invocation as a specific denial of the allegations.  
 22  
 23

24           148.     Answering Paragraph 148, a response is not required as the Claim is  
 25     not directed at Mikula. To the extent a response is deemed required, based on the  
 26     advice of counsel, Mikula respectfully invokes his rights under the Fifth  
 27     Amendment to the United States Constitution against self-incrimination, declines  
 28

1 to answer the SEC's allegations and respectfully requests that the Court treat such  
2 invocation as a specific denial of the allegations.

3 149. Answering Paragraph 149, a response is not required as the Claim is  
4 not directed at Mikula. To the extent a response is deemed required, based on the  
5 advice of counsel, Mikula respectfully invokes his rights under the Fifth  
6 Amendment to the United States Constitution against self-incrimination, declines  
7 to answer the SEC's allegations and respectfully requests that the Court treat such  
8 invocation as a specific denial of the allegations.  
9

10 150. Answering Paragraph 150, a response is not required as the Claim is  
11 not directed at Mikula. To the extent a response is deemed required, based on the  
12 advice of counsel, Mikula respectfully invokes his rights under the Fifth  
13 Amendment to the United States Constitution against self-incrimination, declines  
14 to answer the SEC's allegations and respectfully requests that the Court treat such  
15 invocation as a specific denial of the allegations.  
16

17 151. Answering Paragraph 151, a response is not required as the Claim is  
18 not directed at Mikula. To the extent a response is deemed required, based on the  
19 advice of counsel, Mikula respectfully invokes his rights under the Fifth  
20 Amendment to the United States Constitution against self-incrimination, declines  
21 to answer the SEC's allegations and respectfully requests that the Court treat such  
22 invocation as a specific denial of the allegations.  
23  
24  
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1           152.     Answering Paragraph 152, Mikula states that the allegations contained  
 2     therein call for legal analysis and conclusion, to which Mikula is not qualified to  
 3     respond. To the extent a response is deemed required, based on the advice of  
 4     counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
 5     United States Constitution against self-incrimination, declines to answer the SEC's  
 6     allegations and respectfully requests that the Court treat such invocation as a  
 7     specific denial of the allegations.  
 8  
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10                                   **SEVENTH CLAIM FOR RELIEF**  
 11                                   **Unregistered Offer and Sale of Securities**  
 12                                   **Violations of Section 5(a) and 5(c) of the Securities Act**  
 13                                   **(against Elegance and Beri)**

14           153.     Answering Paragraph 153, Mr. Mikula hereby incorporates by  
 15     reference his responses to the allegations in paragraphs 1 through 108 of the  
 16     Complaint.

17           154.     Answering Paragraph 154, a response is not required as the Claim is  
 18     not directed at Mikula. To the extent a response is deemed required, based on the  
 19     advice of counsel, Mikula respectfully invokes his rights under the Fifth  
 20     Amendment to the United States Constitution against self-incrimination, declines  
 21     to answer the SEC's allegations and respectfully requests that the Court treat such  
 22     invocation as a specific denial of the allegations.  
 23  
 24

25           155.     Answering Paragraph 155, a response is not required as the Claim is  
 26     not directed at Mikula. To the extent a response is deemed required, based on the  
 27     advice of counsel, Mikula respectfully invokes his rights under the Fifth  
 28

1 Amendment to the United States Constitution against self-incrimination, declines  
2 to answer the SEC's allegations and respectfully requests that the Court treat such  
3 invocation as a specific denial of the allegations.  
4

5 156. Answering Paragraph 156, Mikula states that the allegations contained  
6 therein call for legal analysis and conclusion, to which Mikula is not qualified to  
7 respond. To the extent a response is deemed required, based on the advice of  
8 counsel, Mikula respectfully invokes his rights under the Fifth Amendment to the  
9 United States Constitution against self-incrimination, declines to answer the SEC's  
10 allegations and respectfully requests that the Court treat such invocation as a  
11 specific denial of the allegations.  
12  
13

#### 14 **AFFIRMATIVE DEFENSES**

15 In addition to the foregoing denials, Mikula alleges and asserts the following  
16 defenses. By pleading these defenses, Mikula does not assume the burden of  
17 proving any fact, issue, or element of a claim for relief where such burden properly  
18 belongs to the SEC or some other party. No assertion of any defense is intended or  
19 may be construed as a concession that any particular issue or subject matter is  
20 relevant to the SEC's allegations. Mikula asserts the following affirmative defenses  
21 without waiving his rights under the Fifth Amendment to the United States  
22 Constitution.  
23  
24  
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28

**FIRST DEFENSE**

**(Failure to State a Claim)**

The SEC's claims are barred, in whole or in part, because the Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

**(Good Faith)**

The SEC's claims against Mikula are barred, in whole or in part, because Mikula acted in good faith and in the belief that his conduct conformed with all applicable laws and regulations at all material times.

**THIRD DEFENSE**

**(Lack of Causation/Failure to Plead/Meet All Elements of the Offense)**

The SEC's claims against Mikula are barred, in whole or in part, due to a lack of causation between Mikula's publication of the Reg. A offerings and his alleged receipt of a benefit(s) of any kind.

**FOURTH DEFENSE**

**(Failure to Plead/Meet All Elements of the Offense)**

The SEC's Section 17(b) claim is barred, in whole or in part, because the SEC has failed to plead all of its essential elements by failing to allege facts that Mikula published articles "for consideration received" from the issuers.

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**FIFTH DEFENSE**

**(Failure to Plead/Meet All Elements of the Offense)**

The SEC's claims against Mikula are barred, in whole or in part, to the extent that the underlying facts of the claims lack an offer or sale of securities in interstate commerce.

**SIXTH DEFENSE**

**(Failure to Plead with Particularity)**

The SEC's claims are barred, in whole or in part, because the SEC has failed to plead allegations of fraud with the particularity required pursuant to Federal Rule of Civil Procedure 9(b).

**SEVENTH DEFENSE**

**(Claims as Violative of First Amendment)**

The SEC's claims are barred, in whole or in part, as violative of the First Amendment.

**EIGHTH DEFENSE**

**(Failure to Plead Scienter for 17(b))**

The SEC's Section 17(b) claim is barred because the SEC should be required to plead scienter as an element of its anti-touting allegation.

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**NINTH DEFENSE**

**(Lack of Requisite Mental State)**

The SEC's claims and any remedies sought are barred or reduced, in whole or in part, because Mikula did not act with the requisite mental state with respect to any of the alleged violations at issue.

**TENTH DEFENSE**

**(Recklessness Insufficient for Scienter)**

For the SEC's claims requiring proof of scienter, evidence of recklessness is insufficient to satisfy the scienter requirement and those claims are therefore barred.

**ELEVENTH DEFENSE**

**(Acts or Omissions of Others)**

The SEC's claims are barred, in whole or in part, to the extent they are based on the acts or omissions of other parties and/or other defendants.

**TWELFTH DEFENSE**

**(Lack of Materiality/No Damages)**

The SEC's claims against Mikula are barred, in whole or in part, because any of the alleged misstatements, misrepresentations and/or omissions are not material and/or did not have any material effect on any investor's decision to purchase the Reg. A offerings and/or result in any damages as a result of any

1 alleged acts or omissions committed by Mikula or purportedly chargeable to  
2 Mikula.

3 **THIRTEENTH DEFENSE**

4  
5 **(Consistency with Industry Standards)**

6 The SEC's claims against Mikula are barred because Mikula's actions were  
7 consistent with industry and regulatory standards.

8  
9 **FOURTEENTH DEFENSE**

10 **(Appropriate Business Judgement)**

11 The SEC's claims against Mikula are barred because Mikula exercised  
12 appropriate business judgment and his actions were always consistent with  
13 appropriate business judgement.

14  
15 **FIFTEENTH DEFENSE**

16  
17 **(Any Damages Not Caused by Mikula)**

18 Any alleged damages or loss were the direct and proximate result of one or  
19 more independent, unforeseeable, and superseding causes that were outside of  
20 Mikula's control.

21  
22 **SIXTEENTH DEFENSE**

23 **(Any Damages Caused by Others)**

24  
25 Any alleged damages or loss were caused by the failure of others to exercise  
26 due diligence and/or professional competence.

27 //  
28

## SEVENTEENTH DEFENSE

Any alleged damage or loss are ones for which Palm Beach Research Group of Common Sense Publishing, LLC, a subsidiary of Market Wise, Inc. must indemnify and protect Mikula.

**(Equal Protection)**

## NINETEENTH DEFENSE

While not admitting any of the allegations, others similarly situated to Mikula have not generally been proceeded against for conduct of the type forming the basis of the claims against Mikula, such that he has been singled out for prosecution, violating fairness and the Equal Protection Clause of the U.S. Constitution.

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**TWENTY-THIRD DEFENSE**

**(No Violations of Securities or Exchange Act and No Future Violation of Securities or Exchange Act)**

The SEC's claims for injunctive relief are barred because there has been no violation of the Securities Act or the Exchange Act, and because there is no reasonable likelihood that any alleged violation will be repeated. The SEC's injunctive relief claims is further barred because the adverse effects of an injunction far outweigh any benefit.

**TWENTY-FOURTH DEFENSE**

**(Unintentional Violation/No Support for Penalty)**

The SEC's claim for penalties is barred because any alleged violation was unintentional; there was no harm caused, and/or any alleged harm is insufficient to warrant a penalty; the lack or degree of scienter does not support a penalty; Mikula acted in good faith and has cooperated with the investigation to date; and it would be fundamentally unfair to impose penalties on Mikula in light of the lack of fair notice that his conduct violated the law.

**TWENTY-FIFTH DEFENSE**

**(No Violation of Securities or Exchange Act)**

The SEC's claims to bar Mikula's involvement in a Promotional Campaign related to any security is barred because, inter alia, there has been no violation of the Securities Act or the Exchange Act.

**TWENTY-SIXTH DEFENSE**

**(No Violation of Securities or Exchange Act)**

The SEC's claims as they relate to Hightimes and Cloudatastructure are barred because a Securities Act or Exchange Act violation is not alleged.

**TWENTY-SEVENTH DEFENSE**

**(Improper Venue)**

Venue is not proper in this Court because Mikula is neither present in this jurisdiction, nor had he caused any part of the allegations or transactions to occur in this district.

**TWENTY-EIGHTH DEFENSE**

**(Uncertainty)**

The SEC's allegations are vague, uncertain and unclear as to Mikula's alleged involvement in the alleged violations of the Securities and Exchange Act.

**TWENTY-NINTH DEFENSE**

**(Denial of All Allegations not Expressly Admitted)**

Mikula denies all allegations not expressly admitted.

**THIRTIETH DEFENSE**

**(Reservation of Rights)**

Mikula presently has insufficient knowledge or information regarding whether he may have additional, as yet un-asserted defenses, and reserves the right to assert additional affirmative defenses as discovery and investigation proceed.

1                                   **THIRTY-FIRST DEFENSE**

2                                   **(Award of Attorneys' Fees)**

3                   Mikula has been required to retain the services of Kaplan Marino to defense  
4 this action and reasonable attorneys' fees and costs of suit herein incurred should  
5 be awarded.  
6

7                                   **PRAYER FOR RELIEF**

8                   WHEREFORE, Mikula prays that this Court enter a judgment as follows:  
9

10           1.       That the Complaint be dismissed with prejudice and that judgment be  
11 entered in favor of Mikula;  
12

13           2.       That SEC take nothing by way of the Complaint from Mikula;

14           3.       That Mikula be awarded his costs of suit incurred in the defense of  
15 this action, including reasonable attorney's fees pursuant to the Equal Access to  
16 Justice Act (or as otherwise authorized); and  
17

18           4.       For such further and other relief as the Court may deem just and  
19 proper.  
20

21                                   **DEMAND FOR JURY TRIAL**

22           Mikula hereby demands a jury on any and all issues so triable.  
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27       //  
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1 Dated: April 10, 2023

Respectfully submitted,

2  
3 By: /s/ Nina Marino  
4 NINA MARINO  
5 JENNIFER LIESER

6 Attorneys for Defendant  
7 Jonathan William Mikula  
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